

Final Rule

LSA Document #05-320(F)

DIGEST

Amends [410 IAC 7-22-15](#) to establish standards for the certification of food handlers for food establishments and the imposition of penalties for violations. Effective 30 days after filing with the Publisher.

[410 IAC 7-22-15](#)

SECTION 1. [410 IAC 7-22-15](#) IS AMENDED TO READ AS FOLLOWS:

[410 IAC 7-22-15](#) Certified food handler requirements

Authority: [IC 16-42-5.2-13](#)

Affected: [IC 16-42-5.2](#)

Sec. 15. (a) A corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

(b) After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler. A food handler's certification must be recognized by the Conference for Food Protection or an equivalent nationally recognized certification examination as determined by the department.

(c) A food establishment shall have at least one (1) certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation. It shall be the responsibility of the certified food handler to provide the certificate, letter, or document for verification of passing the examination.

(d) A food establishment that begins operation or changes ownership shall comply with section 15(b) of this rule *[subsection (b)]* not later than six (6) months after beginning operation or changing ownership.

(e) If a food establishment does not have a certified food handler because the certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 15(b) of this rule *[subsection (b)]* not later than three (3) months after the termination date of the previous certified food handler.

(f) If more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler is required for the food establishments.

(g) **Except as provided in subsection (h)**, the certified food handler requirement does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

(1) Heating or serving precooked ~~hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza.~~
foods.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages **that are not potentially hazardous beverages** or ice.

(4) **Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans.**

~~(5) Packaged foods that are not potentially hazardous foods in accordance with the rules adopted by the executive board.~~

~~(6) Heating when it is the only step for a bakery product. or~~

~~(7) (5) Providing prepackaged food in its original package.~~

(h) A food establishment that has more than ten thousand (10,000) square feet in total retail sales space at the food establishment location must comply with this chapter [rule]. This does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale.

~~(h)~~ **(i) The certified food handler requirement does not apply to the following institutions:**

- (1) Hospitals licensed under [IC 16-21](#).**
- (2) Health facilities licensed under [IC 16-28](#).**
- (3) Housing with services establishments that are required to file disclosure statements under [IC 12-10-15](#) or**
- (4) Continuing care retirement communities required to file disclosure statements under [IC 23-2-4](#).**

(5) Community mental health centers (as defined in [IC 12-7-2-38](#)).

(6) Private mental health institutions licensed under [IC 12-25](#).

(7) An area agency on aging designated under [IC 12-10-1](#) that provides food under a nutrition service program. However, the premise [sic., premises] where the food is prepared is not exempt from the requirements under this chapter [rule].

(8) A food pantry that:

(A) is operated or affiliated with a nonprofit organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) distributes food, which may include food from the United States Department of Agriculture, to needy persons.

(j) A food bank or other facility that distributes donated food to other organizations is not exempt from the requirements of this rule.

(k) An organization that is exempt from the state gross retail tax under [IC 6-2.5-5-21\(b\)\(1\)\(B\)](#), [IC 6-2.5-5-21\(b\)\(1\)\(C\)](#), or [IC 6-2.5-5-21\(b\)\(1\)\(D\)](#) is exempt from complying with the requirements of this rule.

(l) This section does not prohibit an exempted organization from waiving the exemption and using a certified food handler.

(Indiana State Department of Health; [410 IAC 7-22-15](#); filed May 19, 2003, 8:50 a.m.: 26 IR 3336; filed Nov 16, 2006, 3:57 p.m.: [20061213-IR-410050320FRA](#))

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